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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,719	04/09/2004	Robert Edwin Schneider	45568-00470	1506

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EXAMINER

GILBERT, SAMUEL G

ART UNIT PAPER NUMBER

3735

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,719	<b>Applicant(s)</b> SCHNEIDER ET AL.	
	<b>Examiner</b> Samuel G. Gilbert	<b>Art Unit</b> 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-25 and 30-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17, 19, 22, 25, 32 and 33 is/are rejected.
- 7) ☒ Claim(s) 18, 20, 21, 23, 24, 30, 31 and 34-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/27/2004</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 5/27/2004 has been considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-17, 19, 22, 25, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Epley (4,628,907).

The applicant's attention is invited to the embodiment of figure 10.

Claim 13 – magnet –136- forms a transducer body, element –150- is an actuator and the driver includes at least coil –132-. It is the examiner's position that the output force of the motor is "substantially linearly" related to the input current.

Claim 14 – element –134- is a drive coil, element –152- is a stator, element –140- is an armature and element –146- is a biasing magnet member.

Claim 15 - spool -138- is a biocompatible enclosure enclosing the motor.

Claim 16 - spool -138- is a first biocompatible enclosure enclosing the armature and element –26'- encloses the stator.

Claim 17 – element –142- is a lateral support member.

Claim 19 – element –146- is a permanent magnet.

Claim 22 – element –146- is substantially outside the path traveled by the electromagnetic field induced by the drive coil.

Claim 25 – the current must inherently alternate to drive the actuator for the device to function as a hearing aid. Without alternating the current the actuator would only be driven in one direction.

Claim 32 – holes –154- form opening on one end of the transducer and wires –78- and –80- inherently form holes at element –30- considered a second end of the transducer.

Claim 33 – the lateral member –154- maintains element –140- so that it may only move linearly.

### ***Allowable Subject Matter***

Claims 18, 20, 21, 23, 24, 30, 31, and 34-36 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

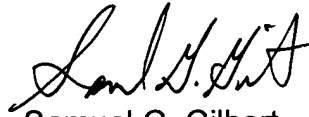
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 5,800,336 and 5,456,654 teach related hearing aid transducers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on 571-272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Samuel G. Gilbert  
Primary Examiner  
Art Unit 3735

sgg